

FHWA's oversight of Federal-aid programs and an FHWA evaluation of the State's performance and resources. If information from process reviews and that available from previous evaluations are considered to be insufficient to form a reasonable judgment, they may be supplemented by additional reviews and inquiries of the State agency.

(b) A State certification may be accepted in whole or in part, depending on FHWA findings. Where minor deficiencies are found, acceptance may be conditioned or may exclude the affected State operations until the deficiencies are corrected. Where deficiencies are found which are of such magnitude as to create doubt that the policies and objectives of title 23, U.S.C., would be accomplished, the State certification will not be accepted until the deficiencies are corrected.

§ 640.111 Content of State certification.

(a) The State certification will include the following:

(1) The name of the State highway/transportation agency and the legal authority which permits such agency to accomplish the policies and objectives contained in or issued pursuant to title 23, U.S.C.;

(2) A statement of the programs, phases of work, and classes of projects or combinations thereof that the State is including in the certification being submitted for acceptance;

(3) For submissions providing full or partial coverage of projects as provided in § 640.107(c), a listing of the title 23, U.S.C., policies and objectives and citation of State laws, regulations, directives, and standards that will be applied. Any policies and objectives that are not applicable due to partial coverage may be omitted; and

(4) A description of the State's methods for assuring local government knowledge of and compliance with State and Federal requirements where they will perform services on projects administered under CA.

(b) Existing assurances and formal agreements between the State and the FHWA with respect to equal employment opportunity, current billing, and control of outdoor advertising will con-

tinue in full force and effect and may be incorporated by reference. Likewise, the State's procedures accepted under 23 U.S.C. 109(h) may be incorporated by reference.

(c) State certifications are to be signed by the chief official of the State highway/transportation agency and submitted to the FHWA Division Administrator.

§ 640.113 Procedures.

(a) Authorization by the FHWA to proceed with work on a CA project will be in response to a written request from the State highway/transportation agency.

(b) If the State finds that exceptions to CA procedures or standards are appropriate on a project, the State will justify and document such decisions.

(c) A project agreement, or modification to a project agreement, will be executed as required by 23 CFR Part 630, subpart C, Project Agreements.

(d) The FHWA may accept projects based on inspections of a type and frequency necessary to ensure the projects are completed in accordance with appropriate standards. The State is to notify the FHWA when a project is complete and/or ready for such inspection and will certify that the plans, design, and construction for the project were in accord with the laws, regulations, directives, and standards contained in the State certification or such project exceptions as were approved by the State.

(e) Revisions or amendments to State certifications will be made when necessary and processed as provided in § 640.111(c). The existing State certification is to be reviewed periodically to determine its adequacy in light of this part, the statutes in effect at the time of the review, and the operational reviews made by FHWA.

[60 FR 47483, Sept. 13, 1995, as amended at 61 FR 57331, Nov. 6, 1996]

§ 640.115 Evaluations.

(a) The FHWA may conduct periodic evaluations, as deemed appropriate, of the State's operations under CA. These evaluations may include coverage of any or all areas of the State's administration of CA projects.

(b) If a failure to comply with Federal or State laws occurs and the State is unable or unwilling to effect corrective action of the deficiency, an evaluation report, including recommendations, will be prepared by the FHWA as a basis for considering whether acceptance of the State certification should be rescinded under § 640.117.

§ 640.117 Rescission of State certification.

The acceptance of a State certification may be rescinded at any time upon request of the State or if considered necessary by the FHWA to protect the Federal interest. The rescission may be applied to all or part of the programs or projects covered in the State certification.

PART 645—UTILITIES

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AUTHORITY: 23 U.S.C. 101, 109, 111, 116, 123, and 315; 23 CFR 1.23 and 1.27; 49 CFR 1.48(b); and E.O. 11990, 42 FR 26961 (May 24, 1977).

Subpart A—Utility Relocations, Adjustments, and Reimbursement

SOURCE: 50 FR 20345, May 15, 1985, unless otherwise noted.

§ 645.101 Purpose.

To prescribe the policies, procedures, and reimbursement provisions for the adjustment and relocation of utility facilities on Federal-aid and direct Federal projects.

§ 645.103 Applicability.

(a) The provisions of this regulation apply to reimbursement claimed by a State highway agency (SHA) for costs incurred under an approved and properly executed highway agency (HA)/utility agreement and for payment of costs incurred under all Federal Highway Administration (FHWA)/utility agreements.

(b) Procedures on the accommodation of utilities are set forth in 23 CFR part 645, subpart B, Accommodation of Utilities.

(c) When the lines or facilities to be relocated or adjusted due to highway construction are privately owned, located on the owner's land, devoted exclusively to private use and not directly or indirectly serving the public, the provisions of the FHWA's right-of-way procedures in 23 CFR chapter I, subchapter H, Right-of-Way and Environment, apply. When applicable, under the foregoing conditions, the provisions of this regulation may be used as a guide to establish a cost-to-cure.

(d) The FHWA's reimbursement to the SHA will be governed by State law (or State regulation) or the provisions of this regulation, whichever is more restrictive. When State law or regulation differs from this regulation, a determination shall be made by the SHA subject to the concurrence of the FHWA as to which standards will govern, and the record documented accordingly, for each relocation encountered.

(e) For direct Federal projects, all references herein to the SHA or HA are inapplicable, and it is intended that the FHWA be considered in the relative position of the SHA or HA.

§ 645.105 Definitions.

For the purposes of this regulation, the following definitions shall apply:

(a) *Authorization*—for Federal-aid projects authorization to the SHA by the FHWA, or for direct Federal projects authorization to the utility by